REMARKS

The Examiner has objected to claims 19-27 under §112, 2nd paragraph for lacking an antecedent basis for "the fill material" and "the lid". Independent claims 19, 25 and 27 have been amended to remedy the lack of antecedent basis. Allowance of claims 19, 25 and 27 and their dependent claims is respectfully requested.

REJECTION UNDER 35 §USC 103(a)

The Examiner has rejected claims 19 – 27 under 35 §USC 103(a) as unpatentable over Gresh et al. (U.S. Patent No. 4,923,606) in view of Brown et al. (U.S. Patent No. 5,149,427), further in view of Christian (U.S. Patent No. 4,206,845) or Dudzik (U.S. Patent No. 4,887,735). Applicant respectfully traverses this objection. Applicant requests that the Examiner reconsider and withdraw the above rejection of the claims in view of the following:

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck,* 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).
>
> MPEP 706.02(j).

The Examiner states:

> Brown et al. teaches providing a cap (lid) for an underdrain block in order to enhance distribution of backwash fluids evenly across the entire filter bed (see col. 3, lines 24 – 25); and it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of Gresh et al. with the cap of Brown et al., in order to obtain the advantages disclosed by this system.

The problem solved by Applicant's invention is how to provide an underdrain block that is lightweight so that shipping costs are reasonably low and yet keep the blocks sufficiently weighted to prevent shifting and lifting when in place at the bottom of a filter so that serious damage to the infrastructure is avoided. *See Application page 5, line 29 – page 6, line 11.* The Applicant has resolved this problem by shipping a hollow block that is then filled on site with any suitable material. The lid then is snap locked in place to seal the filled underdrain block. *Id.*

The Brown lid is a screening device to prevent filter media from entering the underdrain system. It is a porous planar body of sintered polyethylene having pores in the range of 700 – 800 microns. *Col. 3, line 40 – 55.* The Applicant's lid is non-porous, constructed from a material such as an impervious non-porous plastic material, designed to allow for a hollow underdrain block to be filled on site with any appropriate fill and sealed. Unlike Brown, where the lid is for the enhancement of distribution of backwash fluids evenly across the entire filter bed, the Applicant's lid is for the sealing of filler into the underdrain block. Brown does not, alone or with Gresh teach or suggest all the claim limitations.

The Examiner further states:

> Also, Christian and Dudzik disclose attaching a cover to a container with a U-shaped rim and snap lock arrangement; and it would have been obvious to one of ordinary skill in the art at the time the invention was made to attach the cap of Brown to the

underdrain of Gresh et al. in the manner taught by Christian or Dudzik, since this attachment technique is capable of securing this cap to the underdrain of the thus modified primary reference in substantially the same manner as disclosed by Brown et al. *(see col. 4, lines 11- 12),* to produce substantially the same results.

The Brown cap attaches to an underdrain block by projections extending from the bottom surface and flanges contacting the top wall of the underdrain block. Self-tapping screws placed through the projections are used to secure the cap to the top wall of the block. *Col. 5, line 63 – 67.* Alternatively, the cap may be secured to the underdrain block by magnetic induction fusion welds placed at various positions along the joint between the flanges and the top wall and also on the bottoms of the projections. *Col. 6, line 4 – 8.* Sealant must be applied to seal joints between the flanges and the top wall of the underdrain block. *Col. 5, line 47 – 49.* This is in contrast to the present invention, where the lid for sealing the opening in the top wall has a u-shaped rim with a locking means that interlocks with the underdrain. It requires no further mechanisms for securing the lid to the underdrain, nor the addition of sealant.

Christian and Dudzik disclose food containers with covers that have a plug-fitting lid (Dudzik) and a lip on the container that interlocks with a cover (Christian). When comparing the drawings and descriptions of these references, neither Christian nor Dudzik teach or disclose the inverted u-shaped edge of Applicant's lid the snap locks on the rim of an underdrain block. Since Brown uses screws or welding to secure the cap to the underdrain, it would not have been obvious to one of ordinary skill in the art at the time the invention was made to attach the cap of Brown to the underdrain of Gresh et al. in the manner taught by Christian or Dudzik, since these attachment techniques do not require the securing of the cap to the underdrain in substantially the same manner as disclosed by Brown et al.

Additionally, the cover of Christian is not an airtight sealing cover. There are channels around the periphery of the base, which flare outwardly and extend under and around the cover. These channels are vents, which allow heat to escape, thereby preventing the build up of condensate in the container. Col. 3, line 24 – 31. The Applicant's lid is an airtight seal, preventing leakage into the underdrain.

Dudzik claims a container with a rim member for receiving a push fitted lid. The rim member is slidingly received in the mouth of the container. Col. 2, line 41 - 42. In the present invention, the attaching mechanism is integral with lid, attaching to the underdrain block. The attachment means is not a separate entity like Dudzik's, which must be affixed to a container before a lid can be fastened to the container. Also, Dudzik does not contain a sealing member such as that found in the present invention.

Therefore, the prior art references do not teach or suggest all the claim limitations of the present invention. Neither Gresh et al. nor Brown et al., in further in view of Christian or Dudzik alone nor in combination, teach the elements of Applicant's invention as claimed. Specifically, neither Gresh et al. nor Brown et al., in further in view of Christian or Dudzik teach or suggest Applicant's lid. None of the references anticipate or suggest a lid for an underdrain block that is non-porous and tightly seals by locking on the opening on the hollow jacketed block after it has been filled. Nor does the prior art teach or suggest the attachment mechanism of the present invention.

REQUESTS

Applicant respectfully requests Examiner's withdrawal of the previous rejection under 35 U.S.C. §103(a) and consent to allowance of Applicant's claims 19 - 27.

Applicant respectfully requests a telephone interview with Examiner to resolve any questions related to this response.

Respectfully submitted,

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